UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,239	09/08/2000	Loren G. Knutson	068520.0103	3004

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EXAMINER
SHRADER, LAWRENCE J

ART UNIT	PAPER NUMBER
2124	

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/658,239	KNUTSON ET AL.
	Examiner	Art Unit	
	Lawrence Shrader	2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>5/24/2004;7/29/2004</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/27/2004</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the RCE filed on July 29, 2004.

Information Disclosure Statement

2.   The Information Disclosure Statement submitted on May 24, 2004 is acknowledged.

Accordingly, the IDS has been considered by the examiner.

Double Patenting

3.   The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent possible
harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.
Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA
1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to
overcome an actual or provisional rejection based on a nonstatutory double patenting ground
provided the conflicting application or patent is shown to be commonly owned with this
application. See 37 CFR 1.130(b).
        Effective January 1, 1994, a registered attorney or agent of record may sign a terminal
disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37
CFR 3.73(b).

4.   Claims 1 and 11 are provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1 and 4 of copending

Application No. 09/657661 in view of Dougherty et al., U.S. Patent 6,370,575 (hereinafter

referred to as Dougherty). The conflicting claims represent the same invention and differ by

features that would have been obvious to one of ordinary skill in the art. Specifically:

In reference to claim 1, this claim recites a project definition including: a plurality of function portions each defining an input port and an output port, a source portion identifying a data source and data destination, and binding information associating an input port with an output port, all taught in claim 1 of the '661 application, which does not call for "a communications link." However, Dougherty teaches a web-based communication system allowing deployment and execution of a project definition file over a communications link (Abstract; column 10, lines 13 – 19). Therefore, it would have been obvious to one skilled in the art to combine the recitation of the '611 application with the teaching of Dougherty thus enhancing the '611 application so the definition files might be loaded and executed remotely through a communications link. Although, the combination of application '611 and Dougherty is provided with a separate application program wherein a function identifies a command (application '611), the combination will function the same without separate application program as referenced to claim 1.

In reference to claim 11, this claim recites a computer-readable medium corresponding to the features of claim 1, which has been rejected as set forth above. Thus, it also would have been taught in claim 4 of the '661 application in view of Daugherty as set forth above.

This is a <u>provisional</u> obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made..

6.   Claims 1 – 6, 8 – 10; 11 – 16, and 18 – 21 are rejected under 35 U.S.C. 102(e) as being

anticipated by Fowlow et al., U.S. Patent 6,083,277 (hereinafter referred to as Fowlow) in view

of Takano, U.S. Patent 6,055,549, and further in view of Reger, U.S. Patent 6,643,843.

In regard to claim 1:

> *"providing a set of predetermined function definitions, at least one of said*
> *predetermined function definitions defining a function for manipulating image data;"*

Fowlow discloses a set of predetermined functions wherein component A is different from other

components B, C, etc. (e.g., see Figure 3) because each component has distinct operations,

arguments, attributes, etc., but does not explicitly disclose manipulating image data. However,

Takano discloses editing (manipulating) image data in accordance with an image definition

(e.g., Figure 2; column 4, lines 1 – 33). Therefore, it would have been obvious to one skilled in

the art at the time the invention was made to combine the method of preparing a predetermined

set of definitions as taught by Fowlow with manipulation of image data in accordance with the

definitions in a file as taught by Takano, because it would be obvious to include image data in a

component with predefined functions to simplify the presentation of the data as taught by

Takano at column 1, lines 54 – 55.

> *"preparing a project definition, said project definition operable when executed to*
> *process said image data and including:"*

Fowlow discloses a means to prepare a distributed object application (project definition)

by connecting distinct components (Abstract) having different function definitions (e.g., see

Figure 3).

> *"a plurality of function portions which each correspond to one of said function*
> *definitions in said set, and which each define at least one input port and at least one*
> *output port that are functionally related according to the corresponding function*
> *definition;"*

Fowlow discloses a plurality of function portions comprised of components having

methods performing specific predetermined functions, having an input port and an output port

(by which information is obtained and sent) related by the corresponding function definition

(Abstract; column 2, lines 1 – 30; e.g., Figure 3). An interface defines a protocol of behavior

(predetermined functions) with a set of constant and method definitions contained within an

interface that can be implemented by any class anywhere in the class hierarchy. When a class

implements an interface, the class agrees to implement all the methods (a function portion

corresponding to a function definition) defined in the interface.

> *"a further portion which includes a source portion identifying a data source and defining*
> *an output port through which said image data from the data source can be produced,*
> *and which includes a destination portion identifying a data destination and defining an*
> *input port through which said image data can be supplied to the data destination;"*

Fowlow discloses that the interface is retrieved to determine the both the destination

portion (plugs) and the source portion (sockets), as well as the input and output ports through

which the data is supplied and produced (Abstract; column 2, lines 1 – 60; e.g., Figure 3).

> *"binding information which includes binding portions that each associate a respective*
> *said input port with one of said output ports;"*

Information is processed and an input is associated with a respective output wherein Fowlow discloses that the interface is retrieved to determine the both the destination portion (plugs) and the source portion (sockets), as well as the input and output ports through which the data is supplied and produced (Abstract; column 2, lines 1 – 60; e.g., Figures 4 and 5).

"transmitting through a communications link from a first end thereof to a second end thereof a communication from a user which causes one of storing and execution of the project definition at said second end of the communications link;"

Transmitting "a communication" could be as simple as a user on one end of the communication link sending a primitive signal to a user or process on the other end of the communication link wherein the signal has a predetermined meaning causing the receiving user or process to store and execute the program (project definition is interpreted as a computer program, because if it is executed on a computer it must have some programmatic structure or a series of commands). Fowlow discloses connections links between components causing storing and execution of a definition (described in the interface of the object component; Abstract, e.g., Figures 4 and 5). Also, Fowlow discloses that the system optionally may be coupled to a computer or telecommunications network using a network connection, but neither Fowlow nor Takano explicitly discloses a communication causing storing and execution of a program on the second end of the communication link. However, Reger explicitly discloses a method to download software code through a communication link from a user at a first end to a second end, and the transmission causes automatic storing and execution of the downloaded code in the receiving system (column 5, lines 50 – 56). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the method of preparing a predetermined set of definitions as taught by Fowlow with the storing and execution of a

program over a communication link as taught by Reger, because the automatic storing and

execution of code into a remote system would allow the coupling of the Fowlow system to a

network for downloading updates free of human intervention and without the need for technical

expertise as taught by Reger in the Abstract.

> *"wherein said execution of the project definition operates at least in part to manipulate said image data according to said one predetermined function definition."*

Fowlow discloses connections links between components causing storing and execution

of a definition (described in the interface of the object component; Abstract, e.g., Figures 4 and

5), but neither Fowlow nor Reger explicitly discloses the execution of the definition, which

manipulates image data according to the predetermined definition. However, Takano discloses

editing (manipulating) image data in accordance with an image definition (e.g., Figure 2;

column 4, lines 1 – 33). Therefore, it would have been obvious to one skilled in the art at the

time the invention was made to combine the method of preparing a predetermined set of

definitions Fowlow with the storing and execution of a program or a set of executable

definitions at a second end of communication link as taught by Reger, and further modified by

Takano to include manipulation of image data in accordance with the definitions in the file

because the automatic storing and execution of code into a remote system would allow the

coupling of the Fowlow system to a network for downloading updates, including image data,

free of human intervention and without the need for technical expertise as taught by Reger in

the Abstract, and the simplification of editing image data as taught by Takano at column 1, lines

54 – 55.

In regard to claim 2, incorporating the rejection of claim 1:

"...wherein said preparing step is carried out at said first end of said communications links..."

Fowlow discloses that the system optionally may be coupled to a computer or telecommunications network using a network connection. With such a network connection, it is contemplated that the CPU would receive information from the network, or might output information to the network in the course of performing the above-described method steps (column 18, lines 47 – 55; e.g., Figure 10).

In regard to claim 3, incorporating the rejection of claim 1:

"..including the step of configuring said communications link to include a network."

Fowlow discloses that the system optionally may be coupled to a computer or telecommunications network using a network connection. With such a network connection, it is contemplated that the CPU might receive information from the network, or might output information to the network in the course of performing the above-described method steps (column 18, lines 47 – 55; e.g., Figure 10).

In regard to claim 4, incorporating the rejection of claim 3:

"...to include a portion of the Internet."

Fowlow discloses protocols allowing the network to include the Internet (column 5, lines 26 – 36).

In regard to claim 5, incorporating the rejection of claim 1:

"...said first and second ends of said communications link to be physically remote locations."

Fowlow discloses a system directed towards a distributed system, including CORBA

(column 3, lines 50 – 64). CORBA specifies a system, which provides interoperability between

objects in a heterogeneous, distributed environment.

In regard to claim 6, incorporating the rejection of claim 1:

*"...and including the step of subsequently executing said project definition in response
to receipt of a further communication through a communications link."*

Fowlow discloses that an Object Request Broker provides transport mechanisms in a

distributed system to deliver a communication from a client to a servant object, and invokes an

operation on a distributed object (column 3, line 65 to column 4, line 18).

In regard to claim 8, incorporating the rejection of claim 6:

*"...said communication which initiates execution to be sent by respective different
users."*

Fowlow discloses that an Object Request Broker provides transport mechanisms in a

distributed system to deliver a communication from a client to a servant object, and invokes an

operation on a distributed object (column 3, line 65 to column 4, line 18). A distributed system

inherently contains different users.

In regard to claim 9, incorporating the rejection of claim 8:

*"...said communication which initiates execution to be sent by respective different
communications links."*

Fowlow discloses that an Object Request Broker provides transport mechanisms in a

distributed system to deliver a communication from a client to a servant object, and invokes an

operation on a distributed object (column 3, line 65 to column 4, line 18). A distributed system

inherently contains different users in different locations with inherently different

communications links.

In regard to claim 10, incorporating the rejection of claim 6:

*"...said communication which initiates execution to be sent through the same
communications link."*

Fowlow discloses that an Object Request Broker provides transport mechanisms in a

distributed system to deliver a communication from a client to a servant object, and invokes an

operation on a distributed object (column 3, line 65 to column 4, line 18). The Fowlow invention

can run on the same machine or process or on different machines (column 4, lines 3 – 5), thus

communication can be sent through the same communications link.

In regard to claims 11 – 16, and 18 - 20 (a computer-readable medium), these claims

are rejected for the same corresponding reasons put forth in the rejection of claims 1 – 6, and 8 -

10 (the method).

In regard to claim 21:

Claim 21 adds an additional limitation to the identical preceding limitations of claim 1.

*"wherein said preparing step is carried out at said first end of said communications link,
and wherein said transmitting step includes the step of including said project definition
within said communication transmitted through said communications link."*

Claim 21 is rejected for the same corresponding reasons put forth in claim 1. Fowlow

discloses connections links between components causing storing and execution of a definition

(described in the interface of the object component; Abstract, e.g., Figures 4 and 5). Also,

Fowlow discloses that the system optionally may be coupled to a computer or

telecommunications network using a network connection, but does not explicitly disclose

transmission of a program causing storing and execution of the program on the second end of

the communication link. However, Reger explicitly discloses a method to download software

code through a communication link from a user at a first end to a second end, and the

transmission causes automatic storing and execution of the downloaded code in the receiving

system (column 5, lines 50 – 56). Therefore, it would have been obvious to one skilled in the

art at the time the invention was made to combine the method of preparing a predetermined set

of definitions Fowlow with the storing and execution of a program over a communication link

as taught by Reger, because the automatic storing and execution of code into a remote system

would allow the coupling of the Fowlow system to a network for downloading updates free of

human intervention and without the need for technical expertise as taught by Reger in the

Abstract.

7.   Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowlow

et al., U.S. Patent 6,083,277 in view of Takano, U.S. Patent 6,055,549, further in view of Reger,

U.S. Patent 6,643,843, and further in view of Madany et al. U.S. Patent 6,493,870 (hereinafter

referred to as Madany).

> **In regard to claim** 7, incorporating the rejection of claim 6:

> *"...configuring said communications link...and using a network browser to generate said further communication."*

Fowlow discloses a method of providing a set of distinct predetermined function

definitions using a browser (column 10, line 63), but neither Fowlow, Takano, nor Reger

explicitly teachs the use of a web browser. However, Madany discloses a distributed system

with a remote execution method in which an execution package is created from a set of

components in response to a communication through a communications link that may include the

Internet (column 9, lines 27 – 28), the package is the stored (in memory for execution) and

executed (Abstract; column 5, lines 16 – 41; e.g., Figures 2 and 3). If the Internet is provided as

a communications medium in the Madany invention, then one skilled in the art would expect the

use of a web browser to generate communications between remote sites in the distributed system.

Therefore, it would have been obvious to one skilled in the art at the time the invention was

made to combine the method of preparing the project definition of Fowlow with the Madany

invention that stores and executes an application, which is constructed by packaging

components, after receiving a communication over a communications link using a web browser

over the Internet, because after preparing a project definition in the Fowlow invention it would

be logical to execute it, and the Madany invention provides a means to accomplish the storage

and execution in response a request over a communications link that includs the Internet.

In regard to claim 17 (a computer-readable medium), this claim is rejected for the same

corresponding reasons put forth in the rejection of claim 7 (the method).

Response to Arguments

8.   Applicant's arguments filed July 29, 2004 have been fully considered but they are moot in

view of the new grounds of rejection:

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Lawrence Shrader whose telephone number is (571) 272-3734.

The examiner can normally be reached on M-F 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lawrence Shrader
Examiner
Art Unit 2124   ANIL KHATRI
                                                       PRIMARY EXAMINER

November 18, 2004